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HOUSE BILL 117

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Nora Espinoza

AN ACT

RELATING TO CHILD ABUSE; PROVIDING THAT PLACING A CHILD IN A HOME ENVIRONMENT WHERE METHAMPHETAMINE IS USED IS ABUSE OF A CHILD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-6-1 NMSA 1978 (being Laws 1973, Chapter 360, Section 10, as amended) is amended to read:

"30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

(2) "neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for ~~his~~ the child's well-being because of the faults or habits of ~~his~~ the

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1 child's parents, guardian or custodian or their neglect or  
2 refusal, when able to do so, to provide them; and

3 (3) "negligently" refers to criminal  
4 negligence and means that a person knew or should have known of  
5 the danger involved and acted with a reckless disregard for the  
6 safety or health of the child.

7 B. Abandonment of a child consists of the parent,  
8 guardian or custodian of a child intentionally leaving or  
9 abandoning the child under circumstances whereby the child may  
10 or does suffer neglect. [~~Whoever~~] A person who commits  
11 abandonment of a child is guilty of a misdemeanor, unless the  
12 abandonment results in the child's death or great bodily harm,  
13 in which case [~~he~~] the person is guilty of a second degree  
14 felony.

15 C. A parent, guardian or custodian who leaves an  
16 infant less than ninety days old in compliance with the Safe  
17 Haven for Infants Act shall not be prosecuted for abandonment  
18 of a child.

19 D. Abuse of a child consists of a person knowingly,  
20 intentionally or negligently, and without justifiable cause,  
21 causing or permitting a child to be:

22 (1) placed in a situation that may endanger  
23 the child's life or health;

24 (2) placed in a home environment where  
25 methamphetamine is used;

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1                    [~~(2)~~] (3) tortured, cruelly confined or  
2 cruelly punished; or

3                    [~~(3)~~] (4) exposed to the inclemency of the  
4 weather.

5                    E. [~~Whoever~~] A person who commits abuse of a child  
6 that does not result in the child's death or great bodily harm  
7 is, for a first offense, guilty of a third degree felony and  
8 for second and subsequent offenses is guilty of a second degree  
9 felony. If the abuse results in great bodily harm to the  
10 child, [~~he~~] the person is guilty of a first degree felony.

11                    F. [~~Whoever~~] A person who commits negligent abuse  
12 of a child that results in the death of the child is guilty of  
13 a first degree felony.

14                    G. [~~Whoever~~] A person who commits intentional abuse  
15 of a child twelve to eighteen years of age that results in the  
16 death of the child is guilty of a first degree felony.

17                    H. [~~Whoever~~] A person who commits intentional abuse  
18 of a child less than twelve years of age that results in the  
19 death of the child is guilty of a first degree felony resulting  
20 in the death of a child.

21                    I. Evidence that demonstrates that a child has been  
22 knowingly, intentionally or negligently allowed to enter or  
23 remain in a motor vehicle, building or any other premises that  
24 contains chemicals and equipment used or intended for use in  
25 the manufacture of a controlled substance shall be deemed prima

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facie evidence of abuse of the child.

J. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009.

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